

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

May 30, 2008

No. 07-20760
Summary Calendar

Charles R. Fulbruge III
Clerk

MILTON EARL CARBE,

Petitioner-Appellant,

v.

UNITED STATES OF AMERICA,

Respondent-Appellee.

Appeal from the United States District Court
for the Southern District of Texas
No. 4:07-CV-2727

Before SMITH, BARKSDALE, and ELROD, Circuit Judges.

PER CURIAM:*

Milton Carbe, federal prisoner # 66325-079, appeals the denial of his 28 U.S.C. § 2241 petition challenging the fine imposed as part of his life sentence

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

for conspiracy to possess with intent to distribute cocaine and possession with intent to distribute cocaine. The district court lacked jurisdiction to entertain Carbe's petition, because Carbe's challenge to the fine element of his sentence does not satisfy the "in custody" requirement of § 2241 or 28 U.S.C. § 2255. See, e.g., § 2241(c); *United States v. Segler*, 37 F.3d 1131, 1137 (5th Cir. 1994); *United States v. Hatten*, 167 F.3d 884, 887 (5th Cir. 1999). Accordingly, the order is vacated, and this case is remanded with instruction to enter an order dismissing Carbe's petition for lack of jurisdiction. Carbe's motion to proceed in forma pauperis is denied.

VACATED AND REMANDED; IN FORMA PAUPERIS DENIED.